

**PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2015-077-00852R

Parcel No. 312/00677-205-000

Mia and Chris Barr,

Appellants,

v.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on July 21, 2016. Mia Barr was self-represented. Assistant Polk County Attorney Christina Gonzalez represented the Polk County Board of Review.

Mia and Chris Barr are the owners of a residential, two-story dwelling located at 13319 Rocklyn Drive, Urbandale. It was built in 1995 and has 2680 square feet of above-grade finish and 950 square-feet of average-plus quality basement finish. It also has a three-car attached garage, enclosed porch, deck, and an in-ground swimming pool built in 2012. The site is 0.266 acres. (Ex. A).

The property's January 1, 2015, assessment was \$346,200, allocated as \$62,200 in land value and \$284,000 in improvement value. On their protest to the Board of Review, the Barrs claimed the assessment was not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a). The Board of Review denied the appeal. The Barrs then appealed to PAAB.

Findings of Fact

Mia Barr testified that while her property has a swimming pool, she does not believe this is a positive attribute and she believes it limits the potential buyers if she were to sell her home because of the upkeep and maintenance of this amenity. Moreover, Barr explained that the development her property is located in has only one entrance/exit onto Hickman Road, which is a dangerous intersection to navigate. She also notes her property is twenty-one-years old and in need of a new roof, windows, and other upkeep. For these reasons, she does not believe the increase in the 2015 assessment is warranted.

Barr submitted five properties she believes support her claim. (Exs. C & D). In Barr's opinion, submitting these comparable properties, which she believes are similarly situated and have lower assessments than hers, demonstrates her property is assessed inequitably. The Board of Review submitted four properties it relied on in its decision. (Exs. F & G).

There is no indication that any of the comparable properties submitted recently sold, and no evidence was offered of their market value. Moreover, Barr did not submit any evidence of the fair market value of her property, such as a sale, an appraisal, comparable sales adjusted for differences, or a cost analysis.

The following chart summarizes the equity comparables submitted by both Barr and the Board of Review. (Exs. C & F).

Address	2015 Assessed Value	Grade	Gross Living Area (GLA)	AV/SF
Subject	\$346,200	2+00	2680	\$129.18
13643 Summit Dr	\$245,700	3-05	2620	\$93.78
13543 Summit Dr	\$283,800	3+00	2764	\$102.68
2518 135th St	\$305,400	2-10	2631	\$116.08
2507 135th St	\$265,300	3+00	2688	\$ 98.70
13406 Sheridan Ave	\$283,800	3+10	2735	\$103.77
13218 Rocklyn Cr	\$385,800	1-10	2863	\$134.75
2515 134th St	\$331,000	2+00	2822	\$117.29
13500 Sheridan Ave	\$316,200	2+00	2379	\$132.91
13323 Rocklyn Dr	\$287,100	2+00	2364	\$121.45

All of the properties are similar in location, age, and size. However, Barr's comparable properties all had a lower grade (quality); whereas the Board of Review's comparable properties had similar or higher grades. Additionally, two of Barr's comparable properties, located on Summit Drive, are in a competing neighborhood just south of the subject development and back to Hickman Road, a busy arterial. This location would likely have an impact on the market value of those properties compared to the subject property. The remainder of Barr's comparables and all of the Board's comparables are located within two blocks of the subject. (Exs. E & H).

Amy Rasmussen, Director of Litigation in the Polk County Assessor's Office, testified for the Board of Review and explained about the differences between the subject's cost analysis (Ex. B) and the cost analysis of Barr's equity comparables (Ex. D), which result in variances between the assessments. As an example, she notes the property located at 13406 Sheridan Avenue has a lower grade, no basement finish, no enclosed porch, and no swimming pool. These differences will result in a lower assessment compared to the subject property.

Rasmussen also pointed out the subject property has 950 square-feet of average-plus basement finish compared to the comparable properties that lack basement finish altogether or have lower quality basement finish. Barr was critical of the average-plus rating of her basement finish, asserting it was not professionally finished and she does not believe it is above-average quality.

Of all of the comparables, we find 2515 134th Street to be the most comparable to the subject. Although somewhat larger than the subject, it lacks the subject's deck and pool. Because of these differences, it is assessed for approximately \$15,000 less than the subject at \$331,000.

Considering the amenities and other characteristics of the subject and comparables, we generally conclude that Barr's comparables are inferior to the subject while the Board of Review's comparables are similar to slightly superior to the subject. Accordingly, we would expect the subject's total assessment to fall within the range of the Board of Review's comparable assessments. Indeed, the evidence indicates this to be the case. The assessed value per-square-foot of the Board's comparables

properties ranges between \$117.29 and \$134.75. The subject's assessed value per-square-foot is within this range.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

A taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6)

that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Barr contends that she has offered the assessments of comparable properties that show the subject property is inequitably assessed. Under *Maxwell*, a mere showing of a difference in assessments is not sufficient to establish inequity. Barr did not submit an opinion of the subject’s actual, fair market value. Further, none of the comparable properties recently sold and no evidence was offered of their actual value. As a result, the *Maxwell* analysis cannot be completed and Barr’s claim must necessarily fail. Moreover, we find the Board’s comparables, also located in the subject neighborhood and having a more similar grade to the subject property support a conclusion that the assessment is equitably assessed.

Barr also asserted the basement finish is over-rated as average-plus finish. This argument is more akin to a market value or error claim under Iowa Code section 441.37(1)(a)(1(b, d) and is not properly before this Board. Even if it were, aside from generalized statements, Barr did not provide any evidence of the subject’s actual basement finish condition or how that it affects its market value. If Barr believes the property’s basement finish is incorrectly listed, we suggest she contact the Assessor’s Office to request an interior inspection for future assessment cycles.

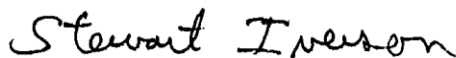
Order

IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

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